THE HON'BLE MS. JUSTICE G. ROHINI

W.P.No. 23038 of 2005

ORDER :

The petitioner claims to be a cultivating tenant in respect of Ac.0-70 cents of land situated in R.S.No.16 of Mandapalli Village, belonging to the 3rd respondent temple. Claiming that he is a landless poor, the petitioner filed a petition before the Assistant Commissioner of Endowments, 2nd respondent, seeking a declaration that he is landless poor and thus entitled to the benefit of sub-section (2) of Section 82 of the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short, 'the Act'). The said application was rejected by the 2nd respondent by order dated 7-7-2005 on the ground that the petitioner was not a tenant of the 3rd respondent-temple. The appeal preferred by the petitioner before the Regional Joint Commissioner of Endowments, 1st respondent, was also dismissed by order dated 20-9-2005. This writ petition is filed seeking a declaration that the said orders of respondents 1 and 2 are arbitrary and illegal.

On behalf of the 3rd respondent a detailed counter affidavit has been filed stating that the petitioner is in no way concerned with the subject land and that one Smt. Ammannamma was the tenant, who relinquished her right over the land in the year 1995. It is stated that both the authorities having considered all the aspects rejected the claim of the petitioner and possession was also taken over by the 3rd respondent-temple and therefore the petitioner cannot be granted any relief.

The 1st respondent on the same lines has filed a separate counter affidavit.

Having heard the learned counsel for both sides and having perused the material on record, I do not find any justifiable reason to

interfere with the impugned orders. The specific averment in the counter affidavit that the possession was taken over by the 3rd respondent temple on 20-10-2005 remained unrebutted. Though the learned counsel for the petitioner across the bar asserted that the petitioner is continuing in possession as on today, in the absence of any supporting material I am not inclined to accept the same. In the light of the concurrent findings of fact recorded by the respondents 1 and 2 that the petitioner is not the tenant in respect of the land in question, the claim of the petitioner that he is a landless poor and therefore entitled to the benefit under Section 82 (2) of the Act is untenable and misconceived.

The writ petition is devoid of merit and is accordingly dismissed. No costs.

02nd February 2006

BJ/